IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

SUIT NO.1371 OF 1998.

Pranab Mazumdar
Adult, Indian Inhabitant,
age about 50 years, Occ.: Business,
residing at 7/B, Ram Niwas, Swastik
Park, Sion Trombay Road, Chembur,
Mumbai 400 071. ... Plaintiff.

Versus.

1. M/s.Excel Enterprises,
   a partnerhsip firm, doing its
   business as Pharmaceutical
   Distributors, having its office
   at 76/1, Daspara road, Thakurpur,
   Calcutta 700 063.

2. Aloke Kumar Mukherjee,
   Adult, Indian Inhabitant, and
   a partner of M/s.Excel Enterprises,
   the Defendant No.1 above, residing'
   at Sree Pally, Santiniketan,
   Birbhum 731 235, West Bengal.

3. Subhash Banerjee,
   Adult, Indian Inhabitant, and
   a partner in M/s.Excel Enterprises,
   the Defendant No.1 above, residing
   at 76/1, Daspara Road, Thakurpur,
   Calcutta 700 063. ... Defendants.

Shri Rajesh Parab holding for Shri R.G.Korde for the Plaintiff.

None for the Defendants.

CORAM : ABHAY S.OKA, J.

DATED : 17th July, 2007.

ORAL JUDGMENT.:

1. This suit is kept under the caption of "undefended suits for exparte decree". The learned Counsel appearing for the Plaintiff has tendered on

record a list with original documents. The said list is marked "X" for identification and is taken on record. There is no written statement filed by the Defendant. This is a fit case for passing a decree under sub-rule (2) of Rule 5 of Order VIII of the Code of Civil Procedure, 1908. However, interest from the date of the suit will have to be granted at the rate of 6% per annum on the principal amount of Rs.1,00,000/-.

2. Hence the Defendants are jointly and severally ordered and decreed to pay a sum of Rs.2,89,921/- to the Plaintiff together with interest at the rate of 6% per annum on the sum of Rs.1,00,000/- from the date of institution of the suit till realisation or payment. The Plaintiff will be entitled to costs of the suit from the Defendant. The Plaintiff will be entitled to the refund of Court fee, if any, as per the Rules.

Judge.